



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R06-OAR-2015-0721; FRL-9946-85-Region 6]

Clean Air Act Redesignation Substitute for the Dallas-Fort Worth 1-hour Ozone and 1997 8-hour Ozone Nonattainment Areas; Texas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a redesignation substitute and make a finding of attainment for both the 1-hour ozone and the 1997 8-hour ozone National Ambient Air Quality Standards (NAAQS) for the Dallas-Fort Worth nonattainment area (DFW area). The redesignation substitute demonstration states that the area has attained both the revoked 1-hour ozone and the revoked 1997 8-hour ozone NAAQS due to permanent and enforceable emission reductions, and that it will maintain those NAAQS for ten years from the date of the EPA's approval of this demonstration. Final approval of the redesignation substitute will result in the area no longer being subject to any remaining applicable anti-backsliding requirements and the nonattainment new source review (NNSR) requirements associated with the revoked NAAQS. In general, final approval of the redesignation substitute would allow Texas to seek to revise the Texas SIP for the area to remove anti-backsliding measures from the active portion of its SIP if it can demonstrate, pursuant to the Clean Air Act (CAA) section 110(1), that such revision would not interfere with attainment or maintenance of any applicable NAAQS, or any other requirement of the CAA. However, the

EPA believes that in this instance, Texas does not need to revise its SIP to alter certain provisions for NNSR effective in the DFW area.

DATES: Written comments must be received on or before **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket No. EPA-R06-OAR-2015-0721, at <http://www.regulations.gov> or via email to Donaldson.tracie@epa.gov. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact Ms. Tracie Donaldson, (214) 665-6633, Donaldson.tracie@epa.gov. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

Docket: The index to the docket for this action is available electronically at www.regulations.gov and in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available at either location (e.g., CBI).

FOR FURTHER INFORMATION CONTACT: Tracie Donaldson, (214) 665-6633, *Donaldson.tracie@epa.gov*. To inspect the hard copy materials, please contact Tracie Donaldson.

SUPPLEMENTARY INFORMATION: Throughout this document wherever “we,” “us,” or “our” is used, we mean the EPA.

I. Background

In 1979, under section 109 of the CAA, EPA established primary and secondary NAAQS for ozone at 0.12 parts per million (ppm) averaged over a 1-hour period (44 FR 8202, February 8, 1979). Primary standards are set to protect human health while secondary standards are set to protect public welfare. In 1997 we revised the primary and secondary NAAQS for ozone to set the acceptable level of ozone in the ambient air at 0.08 ppm, averaged over an 8-hour period (62 FR 38856, July 18, 1997). In 2008 we revised the primary and secondary ozone NAAQS to 0.075 ppm, averaged over an 8-hour period (73 FR 16436, March 27, 2008). Ozone nonattainment areas are classified at the time of designation based on the area’s “design value” (77 FR 30088, 30091, May 21, 2012 and CAA section 181(a)(1)). The design value is calculated from air quality data from the area for the 3 years preceding designation. The possible classifications are Marginal, Moderate, Serious, Severe, and Extreme. Nonattainment areas with a “lower” classification have ozone levels that are closer to the NAAQS than areas with a “higher” classification.

The EPA revoked the 1997 ozone NAAQS for all purposes effective April 6, 2015 (80 FR 12264, 12296, March 6, 2015). In that rule, the EPA established a regulatory list of “applicable requirements” that would apply as anti-backsliding requirements for the transition from the 1997 ozone NAAQS to the 2008 ozone NAAQS. *Id.* at 12298-99. The rule provides

that an area initially subject to the anti-backsliding obligations for a revoked NAAQS will remain so until we approve (1) a redesignation to attainment for the area for the 2008 ozone NAAQS or (2) a “redesignation substitute,” which serves as a successor to redesignation to attainment, for which the area would have been eligible were it not for revocation. *Id.* at 12304. As explained more fully in the preambles to the proposed and final rules, the redesignation substitute demonstration must show that the area (1) has attained that revoked NAAQS due to permanent and enforceable emission reductions and (2) will maintain that revoked NAAQS for 10 years from the date of EPA’s approval of the showing. *See id.* at 12303-306; 78 FR 34178, 34222-223. The rule also provides that if, after notice and comment rulemaking, we approve a redesignation substitute for a revoked NAAQS, the state may request to revise its SIP to revise or remove provisions for NNSR for that revoked NAAQS and that other anti-backsliding obligations for that revoked NAAQS be shifted to contingency measures, provided that such action is consistent with CAA sections 110(l) and 193 (40 CFR 51.1105(b)(2)).

The DFW four-county 1-hour ozone nonattainment area consists of Collin, Dallas, Denton and Tarrant Counties. Under the 1990 CAA Amendments the area was classified as a moderate ozone nonattainment area for the 1-hour ozone NAAQS (November 6, 1991, 56 FR 56694 and CAA section 181(a)(1)). On March 20, 1998, we reclassified the four-county DFW nonattainment area to Serious (63 FR 8128). As discussed below, ambient air quality monitoring data for ozone indicates that the area attained and is continuing to maintain the 1-hour ozone standard.

The DFW nine-county 1997 8-hour ozone nonattainment area consists of Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall and Tarrant counties. On April 30, 2004, the EPA designated and classified the nine-county DFW nonattainment area as a Moderate

nonattainment area under the 1997 8-hour ozone standard with an attainment date of no later than June 15, 2010 (see 69 FR 23858 and 69 FR 23951). On December 20, 2010, we reclassified the nine-county DFW nonattainment area as Serious (75 FR 79302). As discussed below, ambient air quality monitoring data for ozone indicates that the area attained and is continuing to maintain the 1997 8-hour ozone standard.

Texas provided the “Redesignation Substitute Report for the Dallas-Fort Worth (DFW) One-Hour and 1997 Eight-Hour Ozone Standard Nonattainment Areas” (redesignation substitute report) to EPA on August 18, 2015. The submission also requested that EPA concur that the NNSR provisions relevant to the revoked 1997 ozone NAAQS would no longer apply. The report is available through www.regulations.gov (e-docket EPA-R06-OAR-2015-0609).

II. EPA’s Evaluation of the DFW Redesignation Substitute Report for the 1-hour ozone NAAQS

To determine whether we should approve the 1-hour ozone redesignation substitute for the DFW area we evaluated the redesignation substitute report provided by Texas and the ambient ozone data for the area in the EPA Air Quality System (AQS) database. To evaluate the report we used the applicable portions of our September 4, 1992 memo “Procedures for Processing Requests to Redesignate Areas to Attainment” (www.epa.gov/ttn/oarpg/t5/memoranda/redesignmem090492.pdf). A detailed discussion of our evaluation can be found in the Technical Support Document (TSD) for this action. The TSD can be accessed through www.regulations.gov (e-docket EPA-R06-OAR-2015-0721).

A. Has the area attained the revoked 1-hour ozone NAAQS due to permanent and enforceable emission reductions?

In a previous action we found that the DFW area had attained the 1-hour ozone standard (73 FR 61357). Ambient air quality found in the AQS database shows that the DFW area attained the 1-hour ozone standard at the end of 2006 and subsequent years and preliminary data from 2015 indicate that the area has continued to maintain the standard (Table 1).

Table 1. 1-Hour Design Values for the DFW Four-County nonattainment Area

Years	1-Hour Ozone Design Value
2004-2006	124 ppb
2005-2007	124 ppb
2006-2008	118 ppb
2007-2009	115 ppb
2008-2010	110 ppb
2009-2011	110 ppb
2010-2012	108 ppb
2011-2013	108 ppb
2012-2014	102 ppb
Preliminary 2013-2015	102 ppb

In 2006, all monitors in the DFW area had expected exceedances less than the threshold of 1.0 per year. A more detailed table of expected 1-hour ozone exceedances for the DFW monitors based on ozone data can be found in the TSD.

The DFW area redesignation substitute report provides information on emissions of nitrogen oxides (NO_x) and volatile organic compounds (VOCs) and regulations that reduced these emissions. NO_x and VOCs are ozone precursors. Texas identified control measures implemented as part of its attainment demonstration SIP that led to permanent and enforceable emissions reductions. Additionally, we have approved SIPs for the DFW area that document continuous emissions reductions due to permanent and enforceable measures for the 1-hour and 1997 8-hour ozone standards (62 FR 27964, May 22, 1997; 70 FR 18993 April 12, 2005; 73 FR 58475, October 7, 2008; 79 FR 67068, November 12, 2014). The TCEQ has implemented

stringent and innovative regulations that address emissions of NO_x and VOCs. These include, but are not limited to:

- DFW Industrial, Commercial and Industrial (ICI) Major and Minor New Source Rules to control NO_x from multiple source categories. For Major sources, first implemented in the nine-county area on March 1, 2009 or March 1, 2010, depending on the source category. On January 1, 2017, Wise County will be added and control requirements for wood-fired boilers will also be added in all ten counties. For Minor sources, implemented in the nine-county area on March 1, 2009 for rich-burn gas-fired engines, diesel-fired engines, and dual-fuel engines; March 1, 2010 for lean-burn gas-fired engines.
- DFW Major Utility Electric Generation Source Rule to control NO_x. First implemented in March 2009, Wise County to be added in January 2017.
- VOC Control Measures requiring reasonably available control technology (RACT) for VOC sources. First implemented in 2002 with counties added in 2002, 2009 and Wise County to be added in 2017.
- Vehicle Inspection and Maintenance implemented in Collin, Dallas, Denton and Tarrant Counties in 2002 and then expanded to Ellis Johnson, Kaufman, Parker and Rockwall Counties in 2003.
- Federal Area Non-road emissions limits are being phased in through 2018.
- Federal On-road emissions limits are being phased in through 2025.

Given our previous actions approving Texas SIPs pertaining to permanent and enforceable measures, we agree with Texas' conclusion that the area has attained the revoked 1-

hour ozone NAAQS due to permanent and enforceable emission reductions. Many others are listed and a more detailed review can be found in the TSD.

B. Will the area maintain the revoked 1-hour ozone NAAQS for 10 years from the date of our approval?

To demonstrate that the DFW area will maintain the revoked 1-hour ozone NAAQS for 10 years from the date of our approval of the redesignation substitute, the redesignation substitute report provided information on projected emissions of ozone precursors for the four-county DFW 1-hour ozone NAAQS nonattainment area (Tables 2 and 3). The emission projections show that (1) NO_x and VOC emissions will continue to decrease through 2028. We reviewed this information and agree with the conclusion that the area will maintain the revoked 1-hour ozone NAAQS for 10 years from the date of our approval. More detail on our review can be found in the TSD.

Table 2: NO_x Emission Projections for Four-county DFW Area (tons per day)

Category	2012	2014	2017	2020	2023	2026	2028
Point Sources	8.47	8.79	29.47	29.57	29.65	29.71	29.76
Area Sources	28.54	29.41	27.79	25.96	24.9	24.68	24.68
On-Road Mobile Sources (MOVES 2014)	171.2	147.42	96.74	69.67	54.44	43.33	38.83
Non-Road Mobile Sources	76.95	72.29	61.56	53.31	48.87	46.36	45.66
Total	285.16	257.91	215.56	178.51	157.86	144.08	138.93

Table 3: VOC Emission Projections for Four-county DFW Area (tons per day)

Category	2012	2014	2017	2020	2023	2026	2028
Point Sources	11.11	11.02	11.52	11.71	11.86	11.99	12.08
Area Sources	218.9	224.51	218.56	211.43	209.81	210.69	211.77
On-Road Mobile Sources (MOVES 2014)	78.56	71.20	55.59	46.81	41.53	35.85	32.94

Non-Road Mobile Sources	41.39	36.48	32.59	31.08	31.04	31.52	32.08
Total	349.96	343.21	318.26	301.03	294.24	290.05	288.87

III. EPA’s Evaluation of the DFW Redesignation Substitute Report for the 1997 8-hour ozone NAAQS

To determine whether we should approve the 1997 8-hour ozone redesignation substitute for the DFW area we evaluated the redesignation substitute report provided by Texas and the ambient ozone data for the area in the EPA Air Quality System (AQS) database. To evaluate the report we used the applicable portions of our September 4, 1992 memo “Procedures for Processing Requests to Redesignate Areas to Attainment”

(www.epa.gov/ttn/oarpg/t5/memoranda/redesignmem090492.pdf). A detailed discussion of our evaluation can be found in the TSD for this action. The TSD can be accessed through www.regulations.gov (e-docket EPA-R06-OAR-2015-0721).

A. Has the area attained the revoked 1997 8-hour ozone NAAQS due to permanent and enforceable emission reductions?

In a previous action we found that the DFW area had attained the 1997 8-hour ozone standard (80 FR 52630). Ambient air quality found in the AQS database shows that the DFW area attained the 1997 8-hour ozone standard at the end of 2014 and preliminary data indicate that the area has continued to maintain the standard (Table 4).

Table 4. 8-Hour Design Values for the DFW Area

Years	8-Hour Ozone Design Value
2012-2014	84 ppb
Preliminary 2013-2015	83 ppb

In 2014, all monitors in the DFW area reported 8-hour ozone values of 84 ppb or less. A more detailed table of 8-hour ozone values for the DFW monitors can be found in the TSD.

The DFW area redesignation substitute report provides information on emissions of NO_x and VOCs and regulations that reduced these emissions. Texas identified control measures for both the 1-hour ozone and the 1997 8-hour ozone NAAQS that led to permanent and enforceable emission reductions. In our evaluation of the 1-hour ozone NAAQS, we list several existing measures in the DFW area. Please see that evaluation and the TSD for more detailed information. Given our previous actions approving Texas SIPs pertaining to permanent and enforceable measures, we agree with Texas' conclusion that the area has attained the 1997 8-hour ozone NAAQS due to permanent and enforceable emission reductions. The TCEQ has implemented stringent and innovative regulations that address emissions of NO_x and VOCs. Some of these are listed above as well as many others that can be found in the TSD in Section C.

Permanent and Enforceable Emissions Controls Implemented

B. Will the area maintain the revoked 1997 8-hour ozone NAAQS for 10 years from the date of our approval?

To demonstrate that the DFW area will maintain the revoked 1997 8-hour ozone NAAQS for 10 years from the date of our approval of the redesignation substitute, the Texas report provided information on projected emissions of ozone precursors for the nine-county 1997 ozone NAAQS nonattainment area (Tables 5 and 6). The emission projections show that both NO_x and VOC emissions will continue to decrease through 2028. We reviewed this information and agree with the conclusion that the area will maintain the revoked 1997 8-hour ozone NAAQS for 10 years from the date of our approval. More detail on our review can be found in the TSD.

Table 5: NO_x Emission Projections for Nine-county DFW Area (tons per day)

Category	2012	2014	2017	2020	2023	2026	2028
Point Sources	30.80	31.25	62.38	62.49	62.57	62.64	62.71
Area Sources	33.60	34.77	32.01	28.98	27.37	26.97	26.93
On-Road Mobile Sources	216.74	188.65	129.19	95.95	77.87	64.62	59.75
Non-Road Mobile Sources	92.98	86.83	72.83	62.10	56.21	52.71	51.55
Total	374.12	341.50	296.41	249.52	224.02	206.94	200.94

Table 6: VOC Emission Projections for Nine-county DFW Area (tons per day)

Category	2012	2014	2017	2020	2023	2026	2028
Point Sources	27.66	28.61	29.46	29.97	30.41	30.82	31.10
Area Sources	265.43	273.08	260.19	245.76	241.13	241.19	242.15
On-Road Mobile Sources	92.17	83.75	65.62	55.36	49.21	42.70	39.49
Non-Road Mobile Sources	46.87	41.34	36.73	34.78	34.55	35.00	35.53
Total	432.13	426.78	392.00	365.87	355.30	349.71	348.27

IV. Proposed Action

Based on the CAA's criteria for redesignation to attainment (CAA section 107(d)(3)(E)) and the regulation providing for a redesignation substitute (40 CFR 51.1105(b)), EPA is proposing to approve the redesignation substitute for the DFW area for both the revoked 1-hour ozone and the revoked 1997 8-hour ozone NAAQS due to permanent and enforceable emission reductions, and that it will maintain those NAAQS for ten years from the date of the EPA's approval of this demonstration. If EPA finalizes approval of the redesignation substitute, the DFW area would no longer be subject to any remaining applicable anti-backsliding requirements and the NNSR requirements associated with the revoked NAAQS. It would also allow the state to request a SIP revision to shift anti-backsliding obligations for the revoked ozone NAAQS to

contingency measures provided that such action is consistent with CAA sections 110(1) and 193 (if applicable).

Texas's redesignation substitute report also requested that EPA concur that the NNSR provisions relevant to the revoked 1-hour ozone NAAQS and the revoked 1997 8-hour ozone NAAQS would no longer apply. As explained previously, if we approve a redesignation substitute, the state may request to revise its SIP to revise or remove provisions for NNSR for the revoked standard, provided that such action is consistent with CAA sections 110(l) and 193 (40 CFR 51.1105(b)(2)). However, the EPA believes that in this instance, Texas does not need to revise its SIP to alter some of the provisions for NNSR effective in the DFW area. The EPA reads Texas's NNSR SIP designations and classifications (and thus the related major source thresholds and offset ratios) to adjust as 40 CFR part 81 is updated and does not require further action by Texas if EPA were to finalize the redesignation substitute proposed here. This is explained in detail in Section D of the TSD. Because the DFW area is classified as Moderate nonattainment for the 2008 ozone NAAQS (as of the date of this Proposal) , if the EPA finalizes this redesignation substitute, we believe that Texas's NNSR program would automatically change to requirements applicable for moderate areas in accordance with the DFW area classification for the 2008 ozone NAAQS for newly permitted sources. We note that finalization of this redesignation substitute does not relieve sources in the area of their obligations under previously established permit conditions.¹

V. Statutory and Executive Order Reviews

Under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011), this action is not a "significant regulatory action" and therefore is not subject

¹ See Final Implementation Rule for 2008 Ozone Standard, 80 FR 12264, at 12299, footnote 83 and at 12304, footnote 91.

to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001). This action merely proposes to approve a demonstration provided by the State of Texas and find that the DFW area is no longer subject to the anti-backsliding obligations for additional measures for the revoked 1-hour ozone and the revoked 1997 8-hour ozone NAAQS; and imposes no additional requirements. Accordingly, I certify that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this proposed rule does not impose any additional enforceable duties, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). This proposed rule also does not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to approve a demonstration provided by the State of Texas and find that the DFW area is no longer subject to the anti-backsliding obligations for additional measures for the revoked 1-hour ozone and the revoked 1997 8-hour ozone NAAQS; and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

The proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Additionally, this proposed rule does not involve establishment of technical standards, and thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. Additionally, the proposed rule is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: May 13, 2016.

Ron Curry,
Regional Administrator, Region 6.

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